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Ex-Agent Files \$120-Million Libel Suit Against Publisher

In what some fear is the start of an orchestrated retaliation against published criticism of ex-intelligence officers, a former CIA official has filed a \$120-million libel and invasion of privacy suit against a publisher and coauthors of a controversial book.

The suit, filed October 23 by David Atlee Phillips, involves the book, "Death in Washington," published last year. The suit names publisher Lawrence Hill and his wife, Gertrude, president and vice-president of Lawrence Hill & Co. Publishers, Inc., of Westport, Conn.; coauthors Donald Freed and Fred S. Landis; and William F. Pepper, who wrote the foreword.

Hill told PW, "I think it's an attempt to challenge a publisher since we publish books that criticize the intelligence establishment."

Melvin Wulf, attorney for the Hills and the others in two suits filed by Phillips over the book, said that Phillips had even made a declaration of his intent in the suits. Wulf referred to a fund-raising letter that Phillips, as a leader of the Association of Former Intelligence Officers, sent to members recently soliciting funds for Challenge, a legal-action fund for ex-intelligence officers. The letter said, in part:

"Ex-intelligence officers have been battered around in recent years and we've taken a beating. I've decided it's time to challenge this malicious treatment in the public forum. I believe a test case should be mounted against writers who defame ex-intelligence officers, dead and alive, by using their names in egregious novels. I also believe the loyal, ex-intelligence men and women working together should concentrate a class-action suit against the people who reveal the identities of intelligence operatives abroad. Will you help me launch Challenge? This will be an intelligence officers' legal action, not defense fund. . . . Meanwhile, a gift from you will help send a signal that ex-intelligence officers are now determined to challenge those who seem to

believe that we don't have our own rights as citizens," the fund-raising letter said.

"Death in Washington" charges that Phillips orchestrated a coverup of the fact that Orlando Letelier, who was killed in a bomb explosion in his car on a Washington, D.C., street in 1976, was assassinated by agents of the ruling junta in Chile that the CIA had helped to install, and that Phillips worked to obstruct the FBI and police investigations of the assassination. The previous year, Phillips had retired from the CIA, as head of its entire Western Hemisphere section.

The first suit, seeking \$90-million, was filed against the authors and their researchers June 19 after a Washington news conference in which they called for a Justice Department investigation of their charges. The publisher was not named in that suit, but was named in the \$120-million suit filed later. Phillips also is suing *Washingtonian* magazine for \$70-million because of an article it published suggesting that Phillips, posing as Maurice Bishop, was part of a conspiracy with Lee Harvey Oswald to assassinate President Kennedy.

Neither Phillips nor his attorney, James J. Bierbower, described in a *Nation* magazine article as a law associate of a former CIA general counsel, would comment on the suits or discuss future plans. But Phillips's fund-raising appeal letter mentioned a novel by Freed, "Spymaster," published last year, and "Conspiracy," by Anthony Summers, as "egregious" books.

Phillips's suit against Hill and the others cited several allegations in the book and said they were "defamatory and libelous" and that the defendants knew it. The suit asked \$60-million for that alleged violation and \$60-million for invasion of Phillips's privacy, claiming in both instances that the book caused him to be "held in contempt, calumny, distrust and ridicule among the public," and to suffer damage to his writing and lecturing career.

Although Hill said he thought the invasion of privacy claim might be an attempt by Phillips to establish a claim as a private citizen and not as a public figure who is less easily libeled, Wulf dismissed it as additional dress.

the usual [indemnity] clause, in addition to which there was another letter from their lawyer saying they were responsible for everything said in the book." Hill added: "We did a lot of checking and a lot of interrogating of the authors on it. But there were aspects of the book that we did not follow through, to check on every angle. [One author] made certain charges and he said he could back them up. He said, 'If pushed to the wall I will produce evidence.'"

The publisher said he could not vouch for every word in the book. "I don't think a publisher can be expected to do that. But I certainly vouch for the general purpose of the book and the general direction this book takes in exposing the connection between the intelligence establishment and the junta in Chile."

Hill said he didn't intend to alter his approach to publishing because of the suit. On the contrary, he said, "I'd like to bring as much pressure on this as I can. I really am very much in the mood of fighting back and using this thing to expose these guys."

The threat of exposure could prove a problem for Phillips and other ex-intelligence officers who bring such suits, according to Wulf. The first line of defense in a libel suit, he said, is the truth. If the information is untrue, he said, the plaintiff still has the burden of showing that the defendant knew the information was untrue or acted in reckless disregard of whether it was true. "Part of the principle of the First Amendment allows for error in discussion of public events and public officials," Wulf said.

As part of a suit, the defense may demand that the plaintiff answer a list of questions designed to establish as many facts as possible about the case. In the suit filed June 19, Wulf already has submitted "quite extensive written interrogatories to Phillips's lawyer, in which we have asked a lot of information that all litigants are required to provide."

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